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§ 960.503 Occupancy by over-income families.

A PHA that owns or operates fewer than two hundred fifty (250) public housing units, may lease a unit in a public housing development to an over-income family (a family whose annual income exceeds the limit for a low income family at the time of initial occupancy), in accordance with its PHA annual plan (or supporting documents), if all the following conditions are satisfied:

(a) There are no eligible low income families on the PHA waiting list or applying for public housing assistance when the unit is leased to an over-income family;

(b) The PHA has publicized availability of the unit for rental to eligible low income families, including publishing public notice of such availability in a newspaper of general circulation in the jurisdiction at least thirty days before offering the unit to an over-income family;

(c) The over-income family rents the unit on a month-to-month basis for a rent that is not less than the PHA's cost to operate the unit;

(d) The lease to the over-income family provides that the family agrees to vacate the unit when needed for rental to an eligible family; and

(e) The PHA gives the over-income family at least thirty days notice to vacate the unit when the unit is needed for rental to an eligible family.

§ 960.505 Occupancy by police officers to provide security for public housing residents.

(a) *Police officer.* For purpose of this subpart E, "police officer" means a person determined by the PHA to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State or local government or by any agency of these governments. An officer of an accredited police force of a housing agency may qualify.

(b) *Occupancy in public housing.* For the purpose of increasing security for residents of a public housing development, the PHA may allow police officers who would not otherwise be eligible for occupancy in public housing, to

reside in a public housing dwelling unit. The PHA must include in the PHA annual plan or supporting documents the number and location of the units to be occupied by police officers, and the terms and conditions of their tenancies; and a statement that such occupancy is needed to increase security for public housing residents.

EFFECTIVE DATE NOTE: At 65 FR 16729, Mar. 29, 2000, subpart E to part 960 was revised, effective Apr. 28, 2000. For the convenience of the user, the superseded text is set forth as follows:

Subpart E—Exemption From Eligibility Requirements for Police Officers and Other Security Personnel

SOURCE: 59 FR 39405, Aug. 2, 1994, unless otherwise noted.

§ 960.501 Purpose and scope.

The purpose of this subpart is to permit the admission to public housing of police officers and other security personnel, who are not otherwise eligible for such housing under any other admission requirements or procedures, under a plan submitted by a public housing agency (HA) and approved by the Department, and to set forth standards and criteria for the approval of such plans. The Department's objective in granting the exemption allowed by this subpart is to permit long term residence in public housing developments by police officers and security personnel, whose visible presence is expected to serve as a deterrent to criminal activity in and around public housing.

§ 960.503 Definitions.

Eligible families means families that are eligible for residence in public housing assisted under the United States Housing Act of 1937.

Officer means a professional police officer or other professional security provider. Police officers and other security personnel are considered professional if they are employed full time, i.e., not less than 35 hours per week, by a governmental unit or a private employer and compensated expressly for providing police or security services. As used in this subpart, "Officer" may refer to the Officer as so defined or to the Officer and his or her family taken together, depending on the context.

Plan means the written plan submitted by a public housing agency (PHA) to the Department, under which, if approved, the Department will exempt Officers from the normal eligibility requirements for residence in public housing and allow Officers, who are otherwise not eligible, to reside in public housing units. An HA may have only one

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plan in effect at any one time, which will govern exemptions under this subpart for all public housing managed by that HA.

[59 FR 39405, Aug. 2, 1994, as amended at 61 FR 5215, Feb. 9, 1996]

§ 960.505 Exemption from eligibility requirements; plan submission; plan approval or disapproval.

(a) *Conditions for exemption.* The Department may exempt Officers from the eligibility requirements for admission to public housing, provided that:

(1) The Officers would not be eligible, under any other admission requirements or procedures, for admission to the public housing development without such an exemption; and

(2) The exemption is given under a properly submitted plan that satisfies the standards and criteria set forth in § 960.507 of this part and, accordingly, has been approved by the Department.

(b) *Plan submission.* A plan is properly submitted when it is received by the local HUD Field Office with jurisdiction over the HA.

(c) *Notification of plan approval or disapproval.* The Department will notify an HA of the approval or disapproval of its plan within thirty days of its submission. Plan approval by the Department constitutes granting of the exemption for the purposes of this subpart.

§ 960.507 Plan standards and criteria.

(a) *Minimum requirements.* To be approved, a plan must satisfy the following requirements:

(1) The plan must identify the total number of units under management by the HA; the specific housing developments, and the number of units they contain, where the HA intends to place Officers; and the particular units (stating number of bedrooms) within each development that would be allocated to Officers. For each unit identified, the plan must state the amount of rent that the Officer will pay and facts and circumstances (such as, the rent that would ordinarily be charged for the unit, the HA's annual maintenance cost for the unit, the degree of difficulty in attracting Officers to reside in the unit, the extent of the crime problem in the development, and the anticipated benefits of the Officer's presence) that demonstrate the reasonableness of that amount, as required under § 960.509(a) of this subpart.

(2) The plan must identify specifically the benefits to the community and to the HA that will result from the presence of Officers in each affected development.

(3) The plan must describe the existing physical and social conditions in and around each affected development, providing specific evidence of criminal activity (such as, frequency of telephone calls to local police, number of arrests and types of offenses in-

volved, and data on drug abuse in the community) in order to permit the Department to make an informed assessment of the level of need for increased security.

(4) The plan must afford the Department a reasonable basis, which necessarily includes the certifications required under § 960.507(b) of this part, for determining that the use by Officers of the identified dwelling units will:

(i) Increase security for other public housing residents;

(ii) Result in a limited loss of income to the HA; and

(iii) Not result in a significant reduction of units available for residence by Eligible Families.

(b) *Certifications by HA.* Only upon making the determination described in § 960.507(a)(4) of this part will the Department approve a plan. Further, the Department will not make such a determination unless the plan contains a written statement, signed by an authorized officer or other agent of the HA, certifying that:

(1) The dwelling units proposed to be allocated to Officers are situated so as to place the Officers in close physical proximity to other residents;

(2) No resident families will have to be transferred to other dwelling units in order to make available the units proposed to be allocated to Officers;

(3) The dwelling units proposed to be allocated to Officers will be rented under a lease that contains the terms described in § 960.509 of this part; and

(4) The number of dwelling units proposed to be allocated to Officers under the plan does not exceed the limits set forth in § 960.507(c) of this part or, in the alternative, any units so allocated in excess of the applicable maximum number are vacant units for which there are no Eligible Families. This certification on the part of the HA satisfies the requirements of §§ 960.507(a)(4)(ii) and (iii) of this part.

(c) *Unit allocation table.* For purposes of the certification required by § 960.507(b)(4) of this part, the following table sets forth the maximum number of units to be allocated to Officers as a function of the total number of units under management by the HA:

UNIT ALLOCATION TABLE

Total units under management	Units to be allocated
500-999	5
1000-4999	10
5000-9999	15
10,000+	20

The maximum number of units to be allocated by HAs with less than 500 units under management will be determined by the Field Office on a case by case basis.

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(Approved by the Office of Management and Budget under OMB control number 2577-0185)

§ 960.509 Special rent requirements and other terms and conditions.

The HA shall lease units to Officers under a lease agreement that is consistent with the requirements of this section and 24 CFR part 966. The requirements of this section shall take precedence if there is any inconsistency between them and 24 CFR part 966.

(a) *Reasonable rent.* The lease shall provide for a reasonable rent, which may be a flat amount not related to the Officer's income. The HA should attempt to establish a rent that will provide an incentive to Officers to reside in the units but that is also consistent with the limited loss of income requirement of § 960.507(a)(4)(ii) of this part. As required in § 960.507(a)(1) of this part, the plan must state facts and circumstances (such as, the rent that would ordinarily be charged for the unit, the HA's annual maintenance cost for the unit, the degree of difficulty in attracting Officers to reside in the unit, the extent of the crime problem in the development, and the anticipated benefits of the Officer's presence) that demonstrate the reasonableness of the rent amount.

(b) *Continued employment.* The lease shall provide that the Officer's right of occupancy is dependent on the continuation of the employment that qualified the Officer for residency in the development under the plan. The lease also shall provide that the Officer will move out of the leased unit within a reasonably prompt time, to be established by the lease, after termination of employment.

§ 960.511 Applicability of the annual contributions contract; effect on the Performance Funding System.

(a) *Annual contributions contract.* Except to the extent that eligibility requirements are exempted under § 960.505 of this part, public housing units occupied by Officers in accordance with a plan submitted and approved under this subpart will be subject to the terms and conditions of the annual contributions contract (ACC) between the HA and the United States of America. This subpart does not override any of the terms and conditions of the ACC except insofar as they are inconsistent with the provisions of this subpart.

(b) *Performance funding system.* For purposes of the operating subsidy under the Performance Funding System (PFS) described in part 990, subpart A of this chapter, dwelling units allocated to Officers in accordance with this subpart are excluded from the total unit months available, as defined in § 990.102 of this chapter. Also for purposes of the operating subsidy under the PFS, the full amount of any rent paid by Officers in accordance with this subpart is included in other income, as defined in § 990.102 of this chapter. HAs may receive operating subsidy

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for one unit per housing development to promote economic self-sufficiency services or anti-drug programs, including housing police officers and security personnel. An HA may request consideration of such units in its calculation of operating subsidy eligibility through the appropriate local HUD Office.

Subpart F—When Resident Must Perform Community Service Activities or Self-Sufficiency Work Activities

SOURCE: 65 FR 16729, Mar. 29, 2000, unless otherwise noted.

EFFECTIVE DATE NOTE: At 65 FR 16729, subpart F to part 960 was added, effective Apr. 28, 2000.

§ 960.600 Implementation.

PHAs and residents must comply with the requirements of this subpart beginning with PHA fiscal years that commence on or after October 1, 2000. Unless otherwise provided by § 903.11 of this chapter, Annual Plans submitted for those fiscal years are required to contain information regarding the PHA's compliance with the community service requirement, as described in § 903.7 of this chapter.

§ 960.601 Definitions.

(a) *Definitions found elsewhere.*

(1) *General definitions.* The following terms are defined in part 5, subpart A of this title: *public housing, public housing agency* (PHA).

(2) *Definitions concerning income and rent.* The following terms are defined in part 5, subpart F of this title: *economic self-sufficiency program, work activities.*

(b) *Other definitions.* In addition to the definitions in paragraph (a) of this section, the following definitions apply:

Community service. The performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities.

Exempt individual. An adult who:

(1) Is 62 years or older;

(2)(i) Is a blind or disabled individual, as defined under 216(i)(1) or 1614 of the